



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

Atty. Docket

SRINIVAS GUTTA ET AL.

US000257

Serial No. 09/699,608

Group Art Unit: 2173

Filed: OCTOBER 30, 2000

Examiner: C.H. NGUYEN

TITLE: METHOD AND APPARATUS FOR DISPLAYING PROGRAM
RECOMMENDATIONS WITH INDICATION OF STRENGTH OF
CONTRIBUTION OF SIGNIFICANT ATTRIBUTES

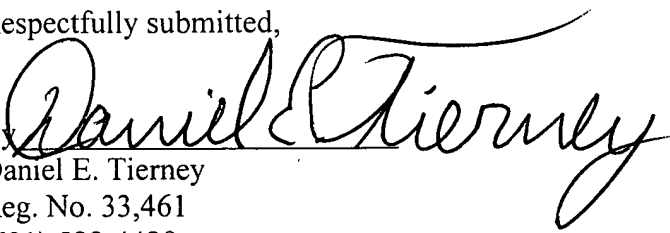
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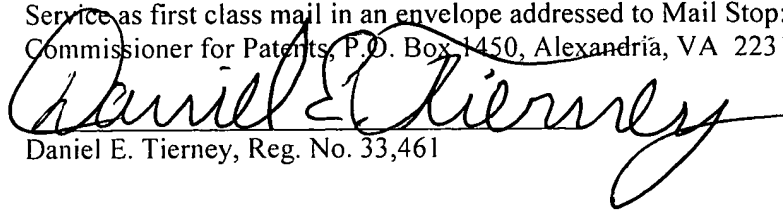
Submitted herewith please find an original and two copies of Appellant's Brief on Appeal. A check in the amount of \$330 is enclosed for the statutory fee under Rule 1.17(c).

Respectfully submitted,

By 
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Daniel E. Tierney, Reg. No. 33,461



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GP 2173

PATENT

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APPEAL BRIEF

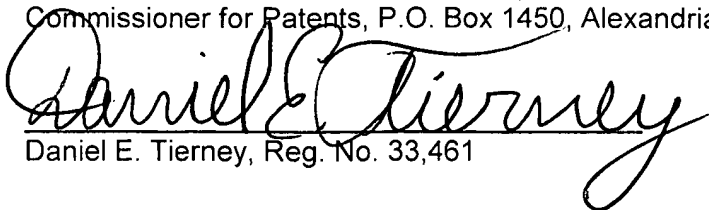
Sir:

REAL PARTY IN INTEREST

The real party in interest is Philips Electronics North America Corporation, having
an office at 345 Scarborough Rd., Briarcliff Manor, NY 10510.

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Daniel E. Tierney, Reg. No. 33,461

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RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge and belief, there are no related appeals or interferences.

STATUS OF CLAIMS

Of the original Claims 1-23 filed, Claims 2, 22 and 23 were amended by an Amendment mailed August 13, 2003. Claims 1-23 remain pending in the Application.

STATUS OF AMENDMENTS

After the final Office Action of March 24, 2004, a Reply Under 37 C.F.R. 1.116 was sent on May 7, 2004. The Advisory Action of June 28, 2004 maintained the rejections. Thus, the Appendix to this Appeal Brief includes all pending Claims 1-23, wherein Claims 2, 22 and 23 reflect the amendments previously made in the August 13, 2003 Amendment, and Claims 1 and 3-21 are as originally filed.

SUMMARY OF THE INVENTION

The claimed invention relates to television program recommenders. Certain prior art electronic program guides (EPGs) allow for the available programs to be filtered according to a user's personal preferences. For example, in certain prior systems the user's preferences may be input and stored by a system in advance. When the data in the EPG is received, the system evaluates or scores the programs based on the user's

preferences and then provides recommendations to the viewer, for example, a selection of programs the viewer might like. The features of such prior art systems nonetheless present difficulties for a user. Among other things, because recommended programs may simply be listed it can still be difficult for a user to identify programs of interest among those presented by the system.

The present invention, as reflected in Claim 1, for example, provides the user with an indication of one or more attributes contributing to the recommendation score of a program. Claim 1 is reproduced here for convenience:

1. A method for displaying available television programs, comprising the steps of:
obtaining a list of available programs;
obtaining a recommendation score for each of said available programs; and
displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score.

Consideration of particular exemplary embodiments falling within the scope of Claim 1 demonstrate its advantages. Fig. 6A of the application shows an exemplary embodiment of an EPG having programs scored in accordance with a user's preferences. For each program displayed in this embodiment, a program attribute in the form of the most significant attribute contributing to the scoring of the program is depicted. (Specification, p. 11, lines 11-18) Thus, the user in this particular embodiment can immediately identify the most significant attribute for the program used in the scoring of the program. Among other things, this allows the user to quickly review the desirability of programs displayed on the EPG.

The recitation of Claim 1 relating to "displaying said list of available programs to

a user with an indication of one or more program attributes contributing to said recommendation score” provides helpful information that can be particularly beneficial when displayed along with other information. For example, as also shown in the embodiment of Fig. 6A, the most significant attribute contributing to the recommendation score is displayed along with the recommendation score itself for the program. In this case, the user can quickly review which programs have a high recommendation score and the most significant attribute as reflected in the scoring that renders it desirable to the user. (Specification, p. 11, lines 15-18) The user can immediately determine, for example, that the program “Al’s Family” shown in Fig. 6A has a relatively high score and also see that the most significant attribute is “sitcom”.

Although Claim 1 has been focused on in the above summary of the invention, independent Claims 12 and 20-23 include like recitation in pertinent part.

ISSUES

Whether each of Claims 1-23 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,608,633 B1 to Sciammarella et al. in view of U.S. Patent No. 6,177,931 B1 to Alexander et al.

GROUPING OF CLAIMS

For the purposes of this appeal, Claims 1-23 stand or fall together.

ARGUMENT

Claims 1-23 are not unpatentable over Sciammarella in view of Alexander.

I. The Examiner's combination of Sciammarella and Alexander fails to show all of the recitations of Claim 1 and thus does not provide a prima facie case of obviousness.

The rejections of Claims 1-23 as obvious over Sciammarella in view of Alexander were first presented in the non-final Office Action of October 30, 2003. Applicants responded to those rejections in a Reply Under 37 C.F.R. 1.111 of January 16, 2004. The rejections of Claims 1-23 given in the final Office Action of March 24, 2004 repeated those in the prior Office Action and also purported to respond to Applicants' arguments. (3/24/04 Final Office Action, ¶¶ 2, 3, respectively) Applicants again responded in a Reply Under 37 C.F.R. 1.116 of May 7, 2004. The Examiner summarily rejected Applicants' detailed arguments in a one sentence Advisory Action of June 28, 2004.

First, it is worthwhile for the Board to review the Examiner's rejections of Claims 1-23 as obvious over Sciammarella in view of Alexander as presented in paragraph 2 of the final Office Action of March 24, 2004, as well as the "Response to Arguments" in paragraph 3 of the final Office Action. Many errors, inconsistencies and the like are evident from even a cursory review of the rejections and response to Applicants' arguments. Despite those difficulties, Applicants made their best efforts to respond to the Examiner's rejections. Review of the actual rejections at the outset may give the

Board a better appreciation of the presentation below.

Claim 1 is initially focused on as representative in the ensuing discussion.¹ In paragraph 2 (at pp. 2-3) of the final Office Action, the Examiner first cites to Schiammarella for disclosing the Claim 1 recitations of “obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score”. Page 3 (line 3) of the final Office Action also appears to indicate that Sciammarella shows “obtaining a list of available programs”. However, the Examiner then immediately acknowledges that Sciammarella does not provide “available programs”: The Examiner explicitly acknowledges “Sciammarella fails to explicitly teach obtaining a list of available programs”, notes that Sciammarella displays categorical information, and cites to Alexander for purportedly teaching the Claim 1 recitation of “obtaining a list of available programs”.² (Final Office Action, p. 3, lines 3-10)

¹ The final Office Action applies the identical rejection to all independent claims. Thus, should the Board pick a different independent claim, the distinguishing analysis would be analogous for any of Claims 12 and 20-23.

² Further, all of the material from Sciammarella cited in paragraphs 2 and 3 in the final Office Action refers to display of “categories” using Sciammarella’s display scheme, not “available programs”. The Office Action’s “Response to Arguments” given in paragraph 3 of the final Office Action evidences further inconsistency on this issue. Paragraph 3 also refers to Sciammarella as providing “available programs”. However, the lengthy quotation from Sciammarella on p. 6 of the final Office Action again only refers to “categories”.

Sciammarella is directed at display of category titles. The GUI labeled “categories” seen in Figs. 2-5 of Sciammarella is representative of Sciammarella’s focus on categories. Categories are presented with relative sizes and/or locations without program listings.³ The scale and/or location of the category title expresses the relative importance of the category as determined by a certain measurement value. (E.g., Sciammarella, col. 3, line 65 to col. 4, line 3) The measurement value may be, for example, the frequency of use of categories by the user. (Id, col. 4, lines 27-29) For example, if a user spends more aggregate time watching movies than sports, display of the category term “movies” may be larger and more centrally located than the display of the category term “sports”. (E.g., Sciammarella, col. 6, lines 8-22 and Fig. 3)

Sciammarella also indicates that a displayed category title may be selected and that consequently subcategory titles of the selected category are displayed. The displayed location and size of subcategory selections may likewise be determined according to the selected measurement value, such as frequency of use. (E.g., Sciammarella, col. 6, lines 43-65 and Figs. 6, 7) Sciammarella also indicates that visual representations of categories and subcategories can be displayed, with the scale and locations of the visual representations determined based on their importance as determined by the measurement value. Although titles of categories and subcategories

³ It is noted that in Figs. 2-7 Sciammarella’s “Categories” GUI is shown to overlay what Sciammarella identifies as prior art, namely, a movie being played with display of the title, category, etc. of the movie. (Compare Sciammarella, col. 1 (lines 47-51) and Fig. 1 with col. 5 (lines 6-13) and Fig. 2.)

are principally used in Sciammarella, content of categories and subcategories may also be used to visually indicate the relative importance. For example, the subcategories of sports can appear to be various sports programs available for viewing presented in boxes of differing sizes.⁴ (E.g. Sciammarella, col. 7 (lines 4-22), Fig. 8 and Claims 14, 15)

Thus, Sciammarella speaks for itself and relates to display of titles and other visual representations of categories and subcategories. Applicants find no listing of available programs being displayed within Sciammarella's category display or GUI. As noted, it appears that the Examiner acknowledges this at least at lines 3-10 of p. 3 of the final Office Action. Accordingly, there is no showing that Sciammarella teaches or suggests at least the Claim 1 recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score" (emphasis added).

As noted, Alexander is cited with respect to Claim 1 in the Office Action for "obtaining a list of available programs". (Final Office Action, ¶2 at p. 3, lines 5-6, citing Alexander col. 7, lines 1-65 and Fig. 3) The Office Action states "[i]t would have been obvious ... to provide obtaining [sic] a list of available programs as taught by Alexander

⁴ It is submitted that Sciammarella's use of the term "content" (which appears in various claims) is understood in context to mean video or pictorial content. Also, the programming text in the corner of Fig. 8 relating to "Super Bowl XXX" is not explained by Sciammarella, but in any event appears to be outside the GUI box and, like the Barbwire movie in the other figures, may relate to the program being displayed under the GUI.

to the visual display categorical information of Sciammarella". (Office Action, ¶2 at p. 3, lines 5-10) Thus, the Office Action appears to combine the programs provided in the EPG of Alexander with the category titles as displayed in Sciammarella.⁵

Use of one of the disclosed measurement values to scale and locate titles of categories in a display as in Sciammarella, modified by simply matching particular programs of Alexander to their respective category titles in the display as set forth in the Office Action, fails to provide a number of recitations of Claim 1. Without conceding any of the other issues pertaining to obviousness (such as the basis for combining references, or whether it would reasonably be successful), the combination in the Office Action fails to set forth at least the Claim 1 recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score".⁶

According to MPEP 2142, the Examiner must initially provide a prima facie case of obviousness. For at least the above-noted reasons, Sciammarella in view of

⁵ As noted above, the rejection of Claim 1 is largely inconsistent and unclear. It is noted that Applicants first stated in the 1/16/04 Reply that this appeared to be how the Examiner was combining Alexander with Sciammarella. The Examiner did not express any subsequent disagreement with Applicants' interpretation in either the final Office Action or the Advisory Action.

⁶ The Examiner's "Response to Arguments" given in paragraph 3 of the final Office Action fails to rebut Applicants' arguments. Among other things, the Examiner quotes recitations of Claim 1 that Applicants did not argue in the 1/16/04 Reply and again incorrectly cites portions of Sciammarella for showing "available programs".

Alexander as set forth in the Office Action fails to provide all of the recitations of Claim 1 and thus fails to present a prima facie case of obviousness with respect to Claim 1 under MPEP 2143.03. Thus Claim 1 is allowable and allowance is respectfully requested. Independent Claims 12 and 20-23 include recitations that provide analogous arguments to those discussed above for Claim 1; thus, the Office Action fails to present a prima facie case of obviousness with respect to Claims 12 and 20-23 at least for reasons analogous to those given above. Allowance of Claims 12 and 20-23 is respectfully requested. Allowance of dependent Claims 2-11 and 13-19 is warranted by virtue of their dependency on their respective independent claim.

II. Sciammarella and Alexander are not properly combined

In addition, another requirement of establishing a prima facie case of obviousness requires that the Examiner demonstrate a proper basis for combining or modifying reference teachings. (MPEP 2143, 2143.01) Even supposing hypothetically (but not conceding) that the programs and any other teachings of Alexander when combined with Sciammarella's display of category information resulted in the invention as recited in Claim 1, the rationale given for combining Sciammarella and Alexander in the Office Action fails to provide a proper basis:

The rationale as given in the final Office Action is "in order enhancing [sic] a user friendly and enable [sic] to provide maximum visual information about categorical

information being displayed on a display screen”.⁷ (Final Office Action, ¶2 at p. 3, lines 8-10) The rationale appears to be an attempt to reflect Sciammarella’s stated objective of “provid[ing] maximum visual information about categorical information being displayed on a display screen”. (Sciammarella, col. 2, lines 57-59)

However, listing particular programs in the display of categories of Sciammarella as set forth in the Office Action would *not* maximize visual information about *categorical information*. In fact, providing the details of particular programs in Sciammarella’s visual representations of categories (or subcategories) would detract from Sciammarella’s presentation of categorical information on the display screen, thus undermining the providing of maximum visual information about categorical information.⁸

It is noted that Sciammarella additionally refers repeatedly to utilizing visual factors to express the degree of importance of a particular category over other categories of categorical information. (E.g., Sciammarella, Abstract) Providing text information regarding particular programs in Sciammarella’s category interface as set forth in the Office Action would obscure or otherwise subvert the use of visual factors to express the degree of importance of one particular category over another. As discussed above, absent from Sciammarella’s category display or GUI is such display

⁷ Paragraph 3 of the final Office Action (“Response to Arguments”) repeats this rationale and adds “for rating purpose”.

⁸ Thus, the combination in the Office Action fails the MPEP 2143.01 requirement that any proposed modification not render Sciammarella unsatisfactory for its intended purpose.

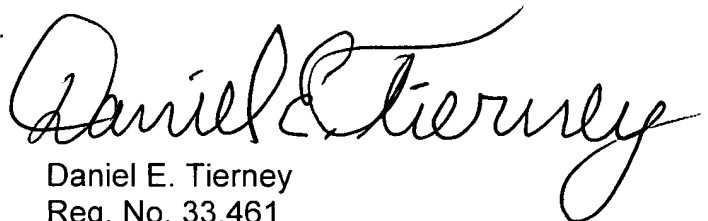
of individual programming.⁹

Thus, the rationale presented in the Office Action fails to provide a teaching, suggestion or motivation for combining Sciammarella and Alexander according to MPEP 2143.01.¹⁰ For at least this additional reason, no prima facie case of obviousness is presented with respect to independent Claim 1. Allowance of Claim 1 is respectfully requested. As noted, independent Claims 12 and 20-23 include recitations that provide analogous distinctions as discussed for Claim 1 and allowance is likewise respectfully requested. Allowance of dependent Claims 2-11 and 13-19 is warranted based on their dependency on their respective independent claim.

SUMMARY

For the reasons given above, each of Claims 1-23 are allowable. Allowance of Claims 1-23 is respectfully requested.

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631-588-4429

Dated: August 27, 2004

⁹ Although not referred to by the Examiner, Sciammarella's background section surveys certain prior displays of particular programs, categories and subcategories and focuses on their failure to provide relative category and subcategory information. It is submitted that Sciammarella's background does not provide a teaching, suggestion or motivation for combining individual programs with Sciammarella's scheme for presenting the relative importance of categories.

¹⁰ The Office Action also appears to state that the combination would have presented a more "user friendly" display. (Final Office Action, ¶2 at p. 3 (line 8) and ¶3 at p. 5 (line 11). However, stating the end result would be a "user friendly" display is not a proper rationale for combining Sciammarella and Alexander.

APPENDIX
CLAIMS ON APPEAL

1. A method for displaying available television programs, comprising the steps of:
obtaining a list of available programs;
obtaining a recommendation score for each of said available programs; and
displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score.
2. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score provides a component score of said one or more program attributes.
3. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score indicates a most significant program attribute.
4. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score indicates a predefined number of most significant program attributes.
5. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score utilizes a color scheme.
6. The method of claim 5, wherein said color scheme discretely maps said score to a color.
7. The method of claim 5, wherein said color scheme continuously maps said score to a color.

8. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score utilizes a variable size-of-text scheme.
9. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score utilizes a variable rate-of-flicker scheme.
10. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score utilizes a variable brightness scheme.
11. The method of claim 1, wherein said indication of one or more program attributes contributing to said recommendation score utilizes a variable bar height.
12. A method for displaying available television programs, comprising the steps of:
 - obtaining a list of available programs;
 - obtaining a recommendation score for each of said available programs; and
 - displaying said list of available programs to a user with a visual cue of one or more program attributes contributing to said recommendation score.
13. The method of claim 12, wherein said visual cue of one or more program attributes contributing to said recommendation score utilizes a color scheme.
14. The method of claim 13, wherein said color scheme discretely maps said score to a color.
15. The method of claim 13, wherein said color scheme continuously maps said score to a color.

16. The method of claim 12, wherein said visual cue of one or more program attributes contributing to said recommendation score utilizes a variable size-of-text scheme.
17. The method of claim 12, wherein said visual cue of one or more program attributes contributing to said recommendation score utilizes a variable rate-of-flicker scheme.
18. The method of claim 12, wherein said visual cue of one or more program attributes contributing to said recommendation score utilizes a variable brightness scheme.
19. The method of claim 12, wherein said visual cue of one or more program attributes contributing to said recommendation score utilizes a variable bar height.
20. A system for displaying available television programs, comprising:
 - a memory for storing computer readable code; and
 - a processor operatively coupled to said memory, said processor configured to:
 - obtain a list of available programs;
 - obtain a recommendation score for each of said available programs; and
 - display said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score.
21. A system for displaying available television programs, comprising:
 - a memory for storing computer readable code; and
 - a processor operatively coupled to said memory, said processor configured to:
 - obtain a list of available programs;
 - obtain a recommendation score for each of said available programs; and
 - display said list of available programs to a user with a visual cue of one or more program attributes contributing to said recommendation score.

22. An article of manufacture for displaying available television programs, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable code means comprising:

a step to obtain a list of available programs;

a step to obtain a recommendation score for each of said available programs; and

a step to display said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score.

23. An article of manufacture for displaying available television programs, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable code means comprising:

a step to obtain a list of available programs;

a step to obtain a recommendation score for each of said available programs; and

a step to display said list of available programs to a user with a visual cue of one or more program attributes contributing to said recommendation score.